

Jerry Nypen Testimony

In support of SB 407

Hearing before the House Agricultural Committee

Thursday, March 12, 2009

Mr. Chairman, and members of this committee, my name is Jerry Nypen from Sidney, Montana. I am the manager of 3 Montana irrigation districts on the Lower Yellowstone River between Glendive, Montana and the river's confluence with the Missouri River. These districts are custodians of 3 Federal Reclamation Projects that total 39,000 acres. I represent them here today as proponents of SB 407.

I have been associated with the unique relationship between the Bureau of Reclamation and irrigation districts around the state of Montana since 1971. The purpose of these relationships is simple: To continue the operation, maintenance, repayment and other routines on Federal irrigation projects.

Congress established Reclamation Law that required local public water user entities, such as irrigation districts, to be established within its projects. The reason was to assume, under contract, access to the water and operation, maintenance, and repayment duties.

Consequently the state developed rules for establishing irrigation districts and outlined how they are to form and function. Ironically, these rules were made law in 1909, the first year the Lower Yellowstone Irrigation Project became operational. It is obvious that the articles of Title 85, Chapter 7 were written to accommodate the Reclamation Program.

Reclamation rules specifically require that prior to executing certain contracts with irrigation districts, a state court confirm that districts are authentic, and that districts follow a correct petition or election process to gain approval of its landowners. We believe that 85-7-1957 was established for this purpose. It is now being interpreted that the court can go beyond confirmation and become involved in the actual terms and conditions of the contract.

It would be very inappropriate for a local court to review contract articles to see if the United States followed Reclamation Law.

It is very important to renew old Bureau/District contracts in a way not to interrupt the magnificent flow of benefits that irrigation projects provide. Believe me, this state is fortunate, especially in these times to have these projects, these economic pumps that benefit everyone. Revenues generated from our water resource developments explode directly into the local, state, regional, and country-wide economies.

Lower Yellowstone Irrigation District, Savage Irrigation District, and Intake Irrigation District support SB 407. We ask this Committee to support SB 407.

Thank you